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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,924	12/01/2003	Nathan W. Pingel	PDG 1264-002F	3248

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STANDLEY LAW GROUP LLP
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EXAMINER

LEV, BRUCE ALLEN

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/724,924

Applicant(s)

PINGEL, NATHAN W.

Examiner

Bruce A. Lev

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8,10,11 and 21-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8,10,11 and 21-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

BRUCE A. LEV
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-8, 10, 11, and 21-23 are rejected under the judicially created doctrine of obviousness-type **double patenting** as being unpatentable respectively over the claims of U.S. Patent No.'s **6,112,473; 6,349,509; and 6,655,095** in view of **Elmore et al 4091,142 further in view of Daws 5,849,406**. 6,112,473; 6,349,509 and 6,655,095 respectively set forth the house, except for the laminate comprising a gel layer, a ceramic-resin layer, and a resin-fiberglass layer. However **Elmore et al teach** forming a housing component as including a laminate comprising a gel layer and a resin-fiberglass layer. **Daws teaches** forming a housing component as including a laminate comprising a ceramic-resin layer. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the laminate of 6,112,473; 6,349,509; and 6,655,095 respectively by forming it as including a gel layer, a ceramic-resin layer, and a resin-fiberglass layer, as taught by Elmore et al further in

view of Daws, in order to increase the strength and fire resistance of the laminate and thereby the housing structure.

Claim Rejections - 35 USC § 103

Claims 1-8, 10, 11, and 21-23 are rejected under 35 U.S.C. ***103(a)*** as being unpatentable over ***Elmore et al 4,091,142 in view of Daws 5,849,406***.

Elmore et al set forth a house (illustrated in Figure 1) comprised of a plurality of modular units connected together; frames; and a plurality of laminate exterior panels comprising a gel layer and a resin-fiberglass layer. ***What Elmore does not set forth*** is the inclusion of a ceramic-resin layer. However, ***Daws teaches*** a housing component as including a laminate comprising a ceramic-resin layer. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the laminate of Elmore by forming it as including a ceramic-resin layer, as taught by Daws, in order to increase the strength and fire resistance of the laminate and thereby the housing structure.

Response to Amendment

The remarks filed January 25, 2005 have been considered but are not deemed to be persuasive.

As concerns remarks pertaining to the *process* limitations of depositing in a pattern of intersecting lines and forming the panel as a unitary member, the examiner

takes the position that the process by which an apparatus is made is *not* given patentable weight within an apparatus claim.

As concerns remarks pertaining to the frames and structure of Elmore, the examiner takes the position that these elements are inherently set forth and mentioned, for example, in column 1, lines 27-31.

The examiner would like to further highlight the fact that in the sole independent claim 1, "modular units" are not structurally defined; the laminate is only set forth as having "a ceramic layer"; and that the one panel being mounted to a modular unit is not set forth as to how and where it is mounted. Therefore the lack of definition and specificity of this claim leaves a tremendous amount of room for interpretation.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruce A. Lev whose telephone number is (703) 308-7470.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2168.

March 10, 2005

Bruce A. Lev
Primary Examiner
Group 3600

A handwritten signature in black ink, appearing to be 'B. Lev', written over the printed name and title.